



Saugus Police Department

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Taylor Thai,

On October 30, we received your request pursuant to the Massachusetts Public Records Law, M.G.L. c.66, §10 for: Any lists, databases, and inventory rosters containing weapons used by officers (i.e., firearms, tasers, batons, etc.).

If no such records exist th[e]n ... the alternative records:

All records pertaining to the weapons that may be carried by officers as determined by the chief of police, or the board, or officer having control of the police under the authority granted in M.G.L. ch.41, §98

All records pertaining to the most recent audit of firearms owned by the department

I am aware of a decision by the Supervisor of Records just last August ([SPR15/544](#)) which upheld a decision by the State Police not to release "a copy of inventory list of all non-lethal and less than lethal directed energy weapons" used by the State Police. I believe that decision applies to your request, and specifically, that Exemption (n) to the Public Records Law applies to your request.

Exemption (n) operates to permit an agency to withhold the following:

records, including, *but not limited to*, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, *or any other records relating to the security or safety of persons* or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.

I believe that disclosing publicly the numbers and types of weapons, particularly firearms, used and deployed by this Department, would undermine public safety as it relates to security measures and emergency preparedness, and that the release of this information would be detrimental to the Department's law enforcement and public safety efforts. A person planning an armed assault on a police officer or police station, or in other areas in the community, would benefit greatly by knowing what weapons he or she might encounter, and how many weapons

the Department has in its inventory. The information could also subject the weapons to theft by a person learning detailed information about them.

If applicable: Furthermore, this Department does not maintain records in the form requested. In order to adequately respond to your request, the Department would be required to create a record. The mandatory disclosure provision of the Public Records Law only applies to information that is in the custody of the Department at the time the request is received. As a result, there is no obligation for a Department to create a record for a requester to honor a request. See G.L. c. 4, section 7(26) (defining "public records" as materials which have already been "made or received" by a public entity); see also 32 Op. Att'y Gen. 157, 165 (May 18, 1977) (custodian is not obliged to create a record in response to a request for information); see also A Guide to the Massachusetts Public Records Law, Secretary of the Commonwealth, Division of Public Records, p. 7 (January 2013) (hereinafter Public Records Guide). As a result, the Department is not required to create this document to respond to your request.

While I believe that my response here is consistent with the Supervisor's ruling in last year's State Police matter, and that this Department need not divulge any of the information you have requested, I can tell you that this Department's issued firearm is the Glock 22 or Glock 23 semi-automatic pistol. The department has issued 68 pistols. The department has sixty-six sworn members. I can also tell you that no officer carries a TASER and is issued one baton and one canister of *oleoresin capsicum* (e.g. chemical spray). The Department stocks a reasonable number of each weapon to allow for replacements should a weapon become damaged or malfunction.

Additionally, the Department does own some patrol rifles; but I cannot release further information about them for the reasons stated above.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10(b) you have the right to appeal this decision to the Supervisor of Public Records within 90 days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Ronald Giorgetti

Chief of Police